

IN THE UNITED STATES DISTRICT COURT FOR  
THE SOUTHERN DISTRICT OF WEST VIRGINIA  
AT CHARLESTON

UNITED STATES OF AMERICA

v.

CRIMINAL NO. 2:22-00164

SHAWN K. BEVER

**MEMORANDUM OPINION AND ORDER**

On November 28, 2022, the court granted defendant's motion to continue, setting the trial of this matter for January 10, 2023. At that time, defendant's motion to dismiss the indictment was pending. In his motion, defendant asked the court to set the trial for a period of thirty (30) days after a ruling on the motion to dismiss. The motion to dismiss was denied on January 4, 2023. In his original motion to continue, defendant maintained that he would need additional time after the motion to dismiss was decided to determine how to proceed.

Because failure to grant an additional continuance would likely result in a miscarriage of justice, the court finds that the ends of justice outweigh the best interest of the defendant and the public in a speedy trial, see 18 U.S.C. § 3161(h)(7)(A), and **CONTINUES** the defendant's trial. In deciding to grant a further continuance, the court considered the factors outlined in 18 U.S.C. §3161(h)(7)(B) and found that failure to grant a continuance would deny counsel the reasonable time necessary for effective preparation, taking into account the exercise of due diligence.

Accordingly, the court hereby **ORDERS** as follows:


1. Trial of this action is continued until January 30, 2023, at 9:30 a.m., in Charleston. Jury instructions and proposed voir dire are to be filed by January 24, 2023;
  2. Additional pretrial motions, if any, are to be filed by January 17, 2023;
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3. A pretrial motions hearing is scheduled for January 24, 2023, at 11:00 a.m., in Charleston; and
4. Pursuant to 18 U.S.C. § 3161(h)(7)(A), the time from the filing of the motion until the trial is excludable for purposes of the Speedy Trial Act.

The Clerk is directed to send a copy of this Memorandum Opinion and Order to counsel of record, to the United States Marshal for the Southern District of West Virginia, and to the Probation Office of this court.

IT IS SO ORDERED this 6th day of January, 2023.

ENTER:

A handwritten signature in black ink, reading "David A. Faber", is written over a horizontal line.

David A. Faber  
Senior United States District Judge